

## ***RESUMÉ***

### ***Legal status of an Arbitrator***

Arbitration especially in 20th century developed into a fully qualified alternative instead of solving property disputes by means of general Courts. It is necessary to point out that the aspects which differ it from civil process and frequently targets of polemics. Even though the development of the arbitration in the Czech Republic has been considerable in the last decade and both general Courts and Constitution Court has responded with sufficient intensity, there are still some areas of unstable arbitration.

Arbitration comes with considerable amount of advantages in comparison with general Courts, but also it brings some topics which are often criticized. That is often caused by a specific point of view not regarding every aspect.

In arbitration there is a possibility to influence composition of arbitrary forum, which is a typical example of problems coming from different adaptations. This adaptation is absolutely different from the one of trials, where on the contrary there is the rule of regular judge, which is warranted by exact definition of the matter, place and function. In arbitration both parties to a contract are allowed to choose an arbitrator regarding his qualification, specialization, professional skills and reputation which is an advantage for the parties having such freedom of choice.

From the other side point of view this freedom of choice can cause fundamental problems of arbitration. Parties of dispute tend to seek for an arbitrator who is supposed to arbitrate towards their concern, instead of seeking for someone with above mentioned qualities. This process can affect not only the principles of arbitrations in terms of finding solution of dispute by an independent person who is qualified enough but and especially trustworthiness and prestige of arbitration in general is badly affected as well.

The disturbance of the trustworthiness of arbitration has also significant social impact. This leads to attempts to further regulation of arbitration. As an example of this we can name so called consumer amendment of the arbitral law.

However, this amendment causes that relative simplicity, informality and elegance in terms of law-cultural maturity partly disappears. However, these characteristics are main features and advantages of arbitration.

The aim of this thesis, as said before, is to analyse position of an arbitrator in the Czech legal system and position of particular institutions in law context including

courts' decree practice. Then I attempted to express main differences in requirements on an arbitrator in consumer disputes.

I fulfilled these aims, as I analyzed particular characteristics of an arbitrator, which are requested by law. I examined thoroughly, how court practice deals with this issue. I investigated, what impacts there are if any requirements on the person of arbitrator are not fulfilled. These requirements can be divided into certain groups which have some differences. I focused on process of appointing of an arbitrator and procedure connecting with extinction of this office. In this part I tried to join the pieces of knowledge about requirements on an arbitrator and functional mechanism of the appointment into office and then the deprivation of it.

I paid attention to a specific form referring to foreigners. I specified main differences between general arbitrators' qualification and the one which is stated for foreigners by law.

As regard to special adaption for an arbitrator in consumer dispute I concentrated on fundamental of the adaption, its roots and reasons. Further I analyzed in details instruments used for warranting and enforcing of the consumer protection. Especially I focused on a list of arbitrators kept by Ministry of Justice.

In the last part I paid attention to new valid law adaption which comes with new Act on Private International Law as a part of re-codification process of private law in effect on 1.1.2014. In this new adaption some apparent imperfections occur, which will be necessary to deal with, if legislator does not remove.